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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/767,016

01/29/2004

Lawrence R. Foore

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24374 7590 12/03/2008

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EXAMINER

QURESHI, AFSAR M

ART UNIT

PAPER NUMBER

2416

MAIL DATE

DELIVERY MODE

12/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/767,016	Applicant(s) FOORE ET AL.	
	Examiner AFSAR M. QURESHI	Art Unit 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/10/08, 6/23/08</u> | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. This Office Action is responsive to Amendment/REMARKS received on 5/30/2008.

Terminal Disclaimer submitted on 5/30/3008 are made of record and rejection of claims 37-46 under the judicially created doctrine of obviousness type Double Patenting is removed.

Response to Arguments

2. Applicant's arguments filed 5/30/2008 have been fully considered but they are not persuasive.

Applicant argued that cited reference, Quick, fails to teach or suggest assigned at least one wireless channel for receiving database on an urgency factor, page 6).

Examiner, respectfully, disagrees with the Applicant's analysis of the rejection. The system disclosed by Quick is communicating digital data between digital transceivers and digital base stations via random access channel and/or **dedicated channel** based on bandwidth demand (urgency factor). If the demand exceeds a first threshold, a dedicated channel is assigned to the digital transceiver to receive digital data packets on dedicated channel. For further clarification Examiner included the same in the body of the rejection.

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3. *The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.*

4 Claims 37-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quick Jr. (US 5,673,259) in view of obviousness.

Claims 37-44, Quick Jr.('Quick') discloses a CDMA cellular telephone system, used in CDMA applications, having forward link and reverse link, mobile stations 102 (fig. 1) (transceivers) and base stations 108. Mobile station (transceiver) transmits call request on "Access channels" and is configured to *receive* data traffic from base stations on a **"Dedicated traffic channel"** to carry the VOICE information (see col. 3, lines 63 through col. 4, lines 22-38). Quick further discloses a searcher reservation scheme which uses a priority assignment algorithm based on type (user specific long code used to encode data and voice transmission) and amount of traffic in the queues (buffer), to be transmitted to the CDMA user device, wherein device **receiving data traffic on at least one "Dedicated channel"** (see Abstract, col. 9, lines 50 through col. 10, lines 1-4).

The system disclosed by Quick is a switching system, comprising a random access channel and dedicated channel for a digital transceiver to receive a data from digital base station. It switches between random access channel and dedicated channel based on bandwidth demand (Urgency Factor), as disclosed under the heading 'SUMMARY'.

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Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, that a transceiver is assigned 'dedicated channel' to receive data based on amount of traffic; bandwidth demand; queue occupancy, etc. (known and old to an artisan as 'urgency factors').

Claims 45-46, Quick discloses bandwidth demand associated with thresholds as traffic type attribute. Quick does not specifically disclose if the data buffer is hardware controlled by fast cache memory (claim 41). However, Quick discloses a processor 302 (fig. 3), and while in switching signals, is capable of storing data packets correspond to threshold levels and based on bandwidth demand, these data packets are transmitted controlled by searcher scheme (software) (see col. 11, lines 5-53). It is known and old that a computer, (digital processor 302 in this case), comprises fast cache memory that is capable of storing instructions, when executed, used to control transmission from buffers.

Therefore it would have been obvious to one of ordinary skill in the art, at the time of invention, to be able to modify processor 302, utilizing fast cache memory to control data buffer in order to facilitate an efficient data packet transmission to a cell site within a CDMA system.

5. **THIS ACTION IS MADE FINAL.** In the Amendment/Request for Reconsideration, by the Applicant, claims were not amended. Examiner maintained the same rejection with further clarification. Therefore, Examiner made it a Final Rejection.

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Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AFSAR M. QURESHI whose telephone number is (571)272-3178. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571) 272 7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Afsar M Qureshi/
Primary Examiner
Art Unit 2416

11/25/2008